

As required by a new statute, the Lead Hazard Control Assistance Act, the Department has adopted regulations for the lead-safe maintenance of multi-family rental housing. Under these rules, some of your responsibilities as a property owner have changed. This mailing provides a description of the regulations and how they will affect you. It also includes a form and instructions for claiming an exemption from these requirements.

- **The enclosed form must be completed and returned to the Department, in the envelope provided, with supporting documentation as described below, to qualify a property for exemption from these regulations.**
- Please do not submit originals. Documentation submitted cannot be returned.
- If you no longer own the property, please indicate this on the form and return it in the envelope provided.

All properties subject to the regulations will be charged \$20 per dwelling unit. To be exempt from the \$20 fee, the completed form and documentation must be submitted and received by the Department *before* the bill for the payment of fees for the property in question is generated.

If no documentation is received, the property will be assumed to be covered by the regulations. If the material you submitted is accepted, you will receive no further notice or correspondence. If additional information is needed, you will receive a letter from the Department.

What Documents Do I Need to Submit to Exempt My Property from the Regulations?

- If your property was constructed after January 1, 1978, submit the Certificate of Occupancy issued by the local construction official or other documentation of the age of the building, such as a survey, deed or tax assessment record verifying that the building did not exist until after January 1, 1978.
- For properties/dwelling units that have been certified as Lead-Free, submit a Lead Free Certificate issued by a certified lead evaluation firm. **Be sure not to confuse Lead-Free with Lead Hazard-Free.**
 - Lead-Free – A Lead Free Certificate indicates that there is no lead-based paint on the premises. The entire property is exempt from the regulations.
 - Lead-Free Interior – Only the dwelling units or common areas specified on the certificate are exempt from the regulations.
 - Lead Hazard Free – The property is *not* exempt from the regulations. A Lead Hazard Free Certificate means that there is lead-based paint, but it is not in a hazardous condition.

(Note: If, at any point in the future, an inspection is performed documenting that the property does not contain lead-based paint or if, over time, all of the lead-based paint is removed, obtain a Lead Free Certificate, issued by a certified lead evaluation firm, and submit it to the Department. The property will then be exempt from the regulations.)

- For properties that operate as seasonal rentals, submit a copy of the seasonal license from the municipality.

Background of the Regulations

On January 20, 2004, Governor McGreevey signed into law the Lead Hazard Control Assistance Act. The Act requires that all multifamily rental properties be maintained in a lead-safe condition. The Act also establishes the Lead Hazard Control Assistance Fund, which will assist eligible property owners with the cost of lead removal and tenant relocation in certain conditions.

The Department of Community Affairs has adopted amendments to the Hotel and Multiple Dwelling Code (N.J.A.C. 5:10) to implement this law by requiring the lead-safe maintenance of multifamily properties. The regulations may be viewed on the Department's website at www.state.nj.us/dca/codes.

The regulations will be enforced through the five-year cyclical inspections performed by the Department. Each dwelling unit subject to the regulations will be charged \$20. This surcharge is mandated by statute and will be used to replenish the Lead Hazard Control Assistance Fund.

If your property was constructed after 1978, you will not be subject to the regulations. However, if your property was built before 1978, the regulations may apply to all or portions (dwelling units, common areas or exterior) of your property.

The regulations will NOT apply to:

1. Buildings, dwelling units, or common areas that have been certified to be Lead-Free in accordance with N.J.A.C. 5:17; or
2. A building or dwelling unit that has been certified as having a Lead-Free Interior in accordance with N.J.A.C. 5:17. Lead-Free Interior exempts the unit from the \$20 fee but does not exempt the exterior of the building from the need for lead-safe work; only the dwelling units or common areas identified on the certificate as lead free are exempt from the fee and the need for lead-safe work practices. **If certain dwelling units or common areas are identified as Lead-Free Interior, the owner must present a copy of this documentation to the inspector at the time of inspection.**
3. A seasonal rental unit that is rented for less than six months' duration each year; or
4. An owner-occupied unit.

If My Property is Subject to the Regulations, What Are My Options?

Any properties or individual dwelling units/common areas of properties that do not fit in any of the above categories will be subject to the provisions of N.J.A.C. 5:10-6.6, lead-safe maintenance requirements. Owners will have two compliance options.

- Option 1. Inspection/Risk Assessment – Lead Hazard Control Plan
- Option 2. Standard Treatments

Option 1. Inspection/Risk Assessment – Lead Hazard Control Plan

You may choose to hire a certified evaluation firm to perform an inspection of your property, followed by a risk assessment to devise a plan to address any potential lead hazards found. These must be performed by a firm certified in accordance with N.J.A.C. 5:17, the Lead Hazard Evaluation and Abatement Code. (Results of an inspection done previously may be used.)

If your property has undergone an inspection and risk assessment and lead-based paint is present, you will be required to perform lead hazard control work in accordance with a plan provided to you by the lead evaluation firm. This plan will describe and prioritize the work that must be done to bring the building into compliance with the requirements for lead safe maintenance over time. For owners with a great deal of work that must be done, the plan enables them to do the work in organized stages based upon a risk assessment.

Where Can I Find a List of Certified Contractors?

For a list of certified lead evaluation contractors and abatement contractors, refer to the Department's website at www.state.nj.us/dca/codes and click on "Bureau of Code Services," then "Lead Safety Unit." The lists are available in PDF format. You may also call the Lead Safety Unit at (609) 633-6224.

Option 2. Standard Treatments

Some property owners may assume or already know that their properties contain lead-based paint and will choose not to have an inspection performed on their property. In these cases, since it is not determined which dwelling units contain lead-based paint, the entire property needs to be treated as though it contains lead-based paint.

For these properties, standard treatments for lead safety must be performed in accordance with N.J.A.C. 5:10-6.6(c). Standard treatments are methods used to maintain surfaces that may contain lead-based paint to prevent the paint from becoming a hazard. Standard treatments include covering horizontal surfaces (floors, window sills, etc.) with a smooth and cleanable covering or coating that will prevent lead hazards.

Standard treatments must be undertaken at unit turnover, unless they were undertaken less than 12 months before. If you've been notified that a pregnant woman or child resides in a unit, standard treatments must be performed every 12 months. All work undertaken by selecting this option may be performed by trained maintenance staff (see below).

Ongoing Evaluation and Maintenance is Required for Everyone

Regardless of the option selected, all property owners will be required to perform ongoing evaluation and maintenance, as set forth in N.J.A.C. 5:10-6.6(d). This means that property owners are required to perform a visual examination to check for deteriorated paint at unit turnover or every twelve months (whichever comes first). The causes of deterioration are to be diagnosed and repaired. Upon completion of the work, dust wipe testing must be performed as specified in the regulations.

Training Requirements for Maintenance Staff

The regulations require that maintenance staff performing visual inspections, undertaking corrective action or maintenance work be able to perform these functions in a manner that is lead-safe. Maintenance staff are required to complete a one-day course on safe maintenance practices that provides background on how to complete work in a lead-safe manner. Also, maintenance staff will be required to perform dust wipe sampling following certain maintenance activities. The regulations provide the names of some courses that are acceptable for this purpose. Courses that were completed prior to adoption of these rules may be accepted. The curriculum and proof of attendance must be submitted for the Department's review and acceptance.

Dust wipe samples must be taken by someone who has been trained to properly perform dust wipe testing. If the lead-safe work practices course taken did not include dust wipe sampling, a second course is necessary before an individual may perform dust wipe sampling.

Recordkeeping

Property owners are required to maintain records of testing performed and lead-free certificates issued. These records must be kept for the life of the structure. Records must also be maintained of all testing, visual examinations, findings, responses to tenant complaints, and corrective action taken for the parts of the building that are not certified to be lead-free. (For a breakdown of components to be included in these records, refer to N.J.A.C. 5:10-6.6(f).) A record of an employee's training in safe building maintenance practices must be maintained as long as the individual is involved in the maintenance of the building.

Tenant Notification and Owner Response

The regulations contain provisions that require the owner to respond to tenant concerns with lead-based paint. Owners must post a notice advising tenants to report deteriorated paint or, if there is no central location for posting notices, the notice must be provided to each tenant. Owners must respond to the written complaint within thirty days. Any written complaints received involving a unit where a child under six or a pregnant woman resides must be addressed within one week. The Department has developed an informational sheet that informs tenants of this and other lead-safety requirements. It is the owner's responsibility to ensure this sheet is distributed to affected tenants when maintenance/renovation work that disturbs lead-based paint is undertaken, unless the sheet was distributed within the last twelve months. A copy of this sheet is enclosed for your

If you have questions, please call the Bureau of Housing Inspection at (609) 633-6225.